

## Department of Health and Human Services

## § 74.33

provided they meet the provisions of §§ 74.31 through 74.37.

### § 74.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with HHS funds as provided to other property owned by the recipient.

### § 74.32 Real property.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the HHS awarding agency.

(b) The recipient shall obtain written approval from the HHS awarding agency for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the HHS awarding agency.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from the HHS awarding agency or its successor. The HHS awarding agency must provide one or more of the following disposition instructions:

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal share in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the HHS awarding agency and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal share in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is

authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

### § 74.33 Federally-owned and exempt property.

(a)(1) Title of federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the HHS awarding agency. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the HHS awarding agency for further agency utilization.

(2) If the HHS awarding agency has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless the HHS awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act, 15 U.S.C. 3710(I), to donate research equipment to educational and nonprofit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals"). Appropriate instructions shall be issued to the recipient by the HHS awarding agency.

(b) For research awards to certain types of recipients, 31 U.S.C. 6306 authorizes HHS to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal government and under conditions that HHS considers appropriate. Such property is "exempt property". Exempt property shall not be subject to the requirements of § 74.34, except that it shall be subject to paragraphs (h)(1), (2), and (4) of that section

#### § 74.34

concerning the HHS awarding agency's right to require transfer.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11747, Mar. 22, 1996]

#### § 74.34 Equipment.

(a) Title to equipment acquired by a recipient with HHS funds shall vest in the recipient, subject to the conditions of this section.

(b)(1) The recipient shall not use equipment acquired with HHS funds to provide services to non-Federal organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for so long as the Federal Government retains an interest in the equipment.

(2) If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the HHS awarding agency.

(3) User charges shall be treated as program income, in keeping with the provisions of § 74.24.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the HHS awarding agency. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, if any, in the following order of priority:

(1) Programs, projects, or activities sponsored by the HHS awarding agency;

(2) Programs, projects, or activities sponsored by other HHS awarding agencies; then

(3) Programs, project, or activities sponsored by other Federal agencies.

(d) During the time that equipment is used on the program, project, or activity for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the program, project, or activity for which the equipment was originally acquired. First preference for such other use shall be given to other programs, projects, or activities spon-

#### 45 CFR Subtitle A (10-1-06 Edition)

sored by the HHS awarding agency. Second preference shall be given to programs, projects, or activities sponsored by other HHS awarding agencies. Third preference shall be given to programs, projects, or activities sponsored by other Federal agencies.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the HHS awarding agency.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following:

(1) Equipment records shall be maintained accurately and shall include the following information:

(i) A description of the equipment;

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number;

(iii) Source of the equipment, including the award number;

(iv) Whether title vests in the recipient or the Federal Government;

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost;

(vi) Information from which one can calculate the percentage of HHS's share in the cost of the equipment (not applicable to equipment furnished by the Federal Government);

(vii) Location and condition of the equipment and the date the information was reported;

(viii) Unit acquisition cost; and

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the HHS awarding agency for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) The recipient shall take a physical inventory of equipment and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting